

**EXPEDITED CONSIDERATION REQUESTED**

**BEFORE THE  
SURFACE TRANSPORTATION BOARD**

***EXPEDITED CONSIDERATION REQUESTED***

**SUNBELT CHLOR ALKALI PARTNERSHIP**

**Complainant,**

**v.**

**NORFOLK SOUTHERN RAILWAY COMPANY**

**Defendant.**

**Docket No. NOR 42130**

**NORFOLK SOUTHERN RAILWAY COMPANY'S CONSENT  
MOTION TO MODIFY PROCEDURAL SCHEDULE**



**GRANTED**

Office of  
Proceedings

DECISION ID NO.: 42814

DECIDED DATE: 12/6/12

SERVICE DATE: 12/17/12

APPROVED: Rachel D Campbell  
Director

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**Counsel to Norfolk Southern Railway Company**

**Dated: December 5, 2012**

**BEFORE THE  
SURFACE TRANSPORTATION BOARD**

**Docket No. NOR 42130**

Under the Board's current procedural schedule for this maximum rate reasonableness case, Complainant SunBelt filed its Opening Evidence on August 1, 2012, after receiving a 60-day extension to the procedural schedule, which NS did not oppose. *See* Decision, *SunBelt v. NS*, STB Docket No. NOR 42130 (served April 25, 2012). On October 23, 2012, NS requested and received a 14-day extension to the schedule due to the extremely close proximity in the filing dates for Reply Evidence in this case and in *E.I. du Pont de Nemours & Co. v. NS*, STB Docket

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No. NOR 42125 (“*DuPont*”). See Decision, *SunBelt v. NS*, STB Docket No. NOR 42130 (served Nov. 1, 2012). SunBelt did not oppose that modification to the procedural schedule.

The short additional 20-day extension NS presently seeks is similarly predicated on the close proximity between NS Reply Evidence in STB Docket No. NOR 42125, just filed on November 30, 2013, and the present case. The short, eighteen day period between the two major filing deadlines is extremely close for cases of this complexity. See *DuPont v. NS*, STB Docket No. NOR 42125, at 2 (Jan. 13, 2012) (describing the *DuPont* rate case, as a proceeding of “unusual scope and complexity.”). Counsel, witnesses, and experts for NS in the *DuPont* case are the same as those in the present case. And, it took longer than NS had anticipated to finalize the Reply Evidence in that case, which impeded and delayed somewhat those counsel and experts’ efforts to complete the Reply Evidence in the instant proceeding.

There are also several other ongoing Board proceedings in which counsel and experts for NS in this case are actively engaged, including *M&G Polymers v. CSX Transportation*, STB Docket No. 42123, and *Rate Regulation Reforms*, STB Ex Parte No. 715. Comments on behalf of CSXT in the *M&G Polymers* case were filed last week addressing the Board’s proposal to apply the new “limit price” market dominance test, and counsel for NS herein also represent both NS and CSXT in *Rate Regulation Reforms*, STB Ex Parte No. 715 (July 25, 2012), in which reply comments are due to be filed on December 7, 2012.

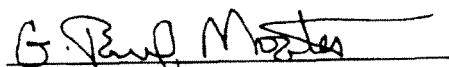
In sum, NS requests a modest 20-day extension, including the year-end holidays, as an adjustment and allowance for the confluence of due dates in important matters pending before

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the Board. Accordingly, NS requests that the Board modestly modify the procedural schedule as follows:

	<b>Due Date Under Current Procedural Schedule</b>	<b>Due Date Under Proposed Amended Procedural Schedule</b>
<b>NS's Reply Evidence</b>	December 18, 2012	January 7, 2013
<b>SunBelt Rebuttal Evidence</b>	April 22, 2013	May 15, 2013
<b>Final Briefs</b>	May 24, 2013	June 14, 2013

Respectfully submitted,



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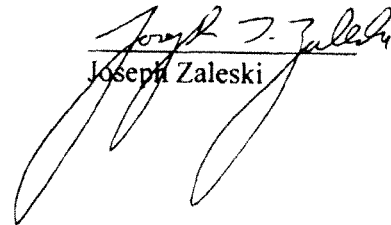
*Counsel to Norfolk Southern Railway Company.*

Dated: December 5, 2012

### **CERTIFICATE OF SERVICE**

I hereby certify that on this 5<sup>th</sup> day of December 2012, I caused a copy of the foregoing Norfolk Southern Railway Company's Consent Motion To Modify Procedural Schedule to be served by email and U.S. Mail upon:

Jeffrey O. Moreno  
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Joseph Zaleski

